

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 49 – SB 529

March 28, 2013

SUMMARY OF ORIGINAL BILL: Reduces, from a Class B to a Class C misdemeanor, the offense of practicing medicine or surgery without first obtaining the applicable, valid certificate.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (005740): Deletes all language after the enacting clause.

Prohibits nurse practitioners and physician assistants from prescribing schedule II, III, and IV controlled substances unless the prescription in question is specifically authorized by the formulary or expressly approved after consultation with the supervising physician before initial issuance of the prescription or before dispensing the medication.

Limits the schedule II or III opioid that nurse practitioners and physician assistants can prescribe to an opioid listed on the formulary and only for a maximum of a non-refillable, thirty-day course of treatment, unless the prescription in question is specifically authorized by the formulary or expressly approved after consultation with the supervising physician before initial issuance of the prescription or before dispensing the medication.

Requires the Department of Health, by August 31st of each year to:

- Identify the 50 prescribers of controlled substances from the previous calendar year from the data available in the controlled substances monitoring database;
- Send a letter to each advanced practice nurse, physician assistant, and physician on the list and, if applicable, to such nurse's or physician assistant's supervising physician, notifying the supervising physician that the nurse or physician assistant has been identified, and the letter shall contain:
 - The significant controlled substances prescribed by the advanced practice nurse, physician assistant, or physician;
 - The number of patients prescribed these controlled substances by the advanced practice nurse, physician assistant, or physician; and
 - The amount of controlled substances prescribed by patient and in total during the relevant calendar year.

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Within 10 days of receiving the letter, the supervising physician or physician shall submit to the Controlled Substance Database Advisory Committee an explanation justifying the amounts of controlled substances prescribed by the nurse or physician assistant in the previous calendar year, demonstrating that these amounts were medically necessary and that the supervising physician had reviewed and approved the amounts or that the amounts prescribed by the physician are justifiable.

Authorizes the Department of Health to develop a form to assist physicians and supervising physicians when completing an explanation.

If the Controlled Substance Database Advisory Committee is unsatisfied with a physician's or supervising physician's explanation, the physician or supervising physician may attempt to rectify the concerns. If the Controlled Substance Database Advisory Committee remains unsatisfied, then the committee may turn the matter over to the Department of Health for investigation.

All records relevant to the identification of the nurses, physician assistants, or physician as well as the physicians' or supervising physicians' explanations shall be confidential, but may be used by the Department of Health to build a case against a nurse, physician assistant, physician, or supervising physician. All correspondence shall be maintained for five years and organized by prescriber so that any future matters may be aggregated.

Failure to timely respond to the department's request for information by the nurse, physician assistant, physician, or supervising physician may be cause for disciplinary action by the physician's or supervising physicians' licensing board and may include a penalty up to \$1,000 per day for failure to respond or failure to respond in a timely manner.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

**Increase State Expenditures - \$12,900/One-Time
\$338,200/Recurring**

Assumptions for the bill as amended:

- According to the Department of Health, this amendment will require an additional administrative assistant to assist the Controlled Substance Database Committee (CSDC) with the required mailings, an additional attorney to provide legal support to the Committee, and one additional physician to evaluate the number of patient records in order to determine if the prescribing of can be justified.
- One additional administrative assistant position will result in an annual increase in state expenditures of \$55,397 (salary \$30,773 + benefits \$4,625 + insurance \$5,999 + supplies

\$600 + administrative cost allocation \$7,900 + phone/LAN/WAN \$1,400 + office lease \$4,100)

- One additional attorney position will result in an annual increase in state expenditures of \$95,394 (salary \$65,544 + benefits \$9,851 + insurance \$5,999 + supplies \$600 + administrative cost allocation \$7,900 + phone/LAN/WAN \$1,400 + office lease \$4,100)
- One additional physician position will result in an annual increase in state expenditures of \$164,451 (salary \$125,578 + benefits \$18,874 + insurance \$5,999 + supplies \$600 + administrative cost allocation \$7,900 + phone/LAN/WAN \$1,400 + office lease \$4,100)
- One-time costs for these three additional positions will result in an increase in state expenditures of approximately \$12,900 [3 x (computer/software/etc. \$1,600 + office landscaping \$2,700)].
- The annual cost for sending registered mailings to advanced practice nurses, physician assistants, and physicians will result in an annual increase in state expenditures of approximately \$3,000.
- According to the Department of Health, the eight-member CSDC will need to meet an additional 25 times throughout the year.
- Members of the CSDC, on average, are reimbursed \$100 for necessary expenses; therefore, these 25 additional meetings will result in an annual increase in state expenditures of \$20,000 (8 x 25 x \$100).
- The total recurring increase in state expenditures is estimated to be \$338,242 (\$55,397 + \$95,394 + \$164,451 + \$3,000 + \$20,000).
- The total non-recurring increase in state expenditures is estimated to be \$12,900.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

/jdb